

Chad Strang
February 13, 2017

Nair Rodriguez vs. Warren Theatres et al.
Case No. CIV-2016-150-D

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IN THE UNITED STATES DISTRICT COURT
DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

(1) NAIR RODRIGUEZ, AS NEXT OF
KIN TO THE ESTATE OF LUIS
RODRIGUEZ
(2) NAIR RODRIGUEZ INDIVIDUALLY AND
(3) LUINAH RODRIGUEZ INDIVIDUALLY,

Plaintiffs,

vs.

No. CIV-2016-150-D

(1) WARREN THEATRES, OKLAHOMA
(2) WARREN THEATRES, LLC
(3) BRIAN CLARKSTON,
(4) TYLER HOWSER,
(5) CHAD STRANG,
(6) THE CITY OF MOORE POLICE DEPARTMENT,
(7) JOSEPH BRADLEY,
(8) RYAN MINARD,
(9) MIDWEST REGIONAL MEDICAL CENTER,
(10) MIDWEST MEDICAL CENTER,
(11) GUY RODOLPH, AND
(12) JASON SMITH,

Defendants

VIDEOTAPE DEPOSITION OF CHAD STRANG
TAKEN ON BEHALF OF THE PLAINTIFFS
ON FEBRUARY 13TH, 2017 AT 10:58 A.M.
IN OKLAHOMA CITY, OKLAHOMA

WORD FOR WORD REPORTING, LLC
111 HARRISON AVENUE, SUITE 101
OKLAHOMA CITY, OKLAHOMA 73104
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REPORTED BY: Jessica L. Weathington, CSR

EXHIBIT

4

Clarkson

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1 Q And what is -- when do you work there?

2 A It kind of fluctuates when I need it, but
3 usually -- usually right now I'm working some on
4 Fridays during the day. Sometimes on Sundays.

5 Q So right now you're working Friday during
6 the day and sometimes on Sundays?

7 A Right.

8 Q Is that typically over the last three to
9 four years what you've worked?

10 A Yeah. Here toward the last few years,
11 yeah.

12 Q When this Rodriguez incident occurred, was
13 that what you were working was typically Fridays
14 during the day and Sundays?

15 A Yes.

16 Q Do you know why you were there that
17 evening?

18 A Yes.

19 Q Okay. Tell me about that.

20 A I had to switch because I had to attend
21 some continuing CLEET training that morning.

22 Q Who did you switch with?

23 A I don't remember.

24 Q Did you typically know -- well, let me
25 strike that.

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1 Q Okay. So let's talk about the evening
2 that you -- of the Rodriguez incident. You said you
3 came on probably around fourish?

4 A Guessing.

5 Q Okay. Can you tell me before the
6 Rodriguez incident what and where you -- where and
7 what you were doing?

8 A Got called to -- the theater had let out
9 and there was two people that were passed out in the
10 theater. And we were working on them. Had
11 called -- had called the on duty Moore officers come
12 because we couldn't wake them up. And so Moore PD
13 on duty was there and the ambulance was there.

14 Q And you said "we." Are you talking about
15 you and --

16 A The other two --

17 Q -- another security guard?

18 A Right.

19 Q Is that Mr. Houser and Mr. Clarkston?

20 A Yes.

21 Q And the three of you couldn't wake the
22 people up in the theater?

23 A Well, we shook them. And they -- they
24 finally, after several attempts, they started coming
25 around. But they were -- appeared to be

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1 intoxicated.

2 Q And so then what happened?

3 A The on duty officers showed up and we let
4 them take care of it.

5 Q Where did you and Mr. Clarkston and Mr.
6 Houser go while the on duty officers were taking
7 care of it?

8 A As they were escorting them out, we just
9 was kind of following along behind through the --
10 through the theater.

11 Q Was this a man and a woman?

12 A Yes.

13 Q What was -- were they Caucasian, Hispanic,
14 African American?

15 A African American.

16 Q Did these individuals get arrested?

17 A I don't believe so.

18 Q Were these individuals taken by ambulance?

19 A No.

20 Q Were these individuals allowed to drive
21 their car?

22 A No.

23 Q How did they leave?

24 A I'm not sure how they left. We got
25 interrupted before -- while that was going on.

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1 Q Okay. Fair enough. So you're
2 interrupted. What were you interrupted with?

3 A Had a lady come into the lobby as we're
4 standing there and tell us there was a fight
5 occurring out in the parking lot.

6 Q And what did you do?

7 A Like, I asked questions. You know, where
8 and who and went from there.

9 Q You asked questions of the lady?

10 A Yeah. Yeah. On the candid reports there
11 was an altercation.

12 Q You have any other businesses?

13 A I do holsters. I make holsters on the
14 side.

15 Q Holsters?

16 A Uh-huh.

17 Q Do you have any sort of personal security
18 business that you do?

19 MR. KIRK: I'm sorry, personal what?

20 MS. OSENBAUGH: Security.

21 MR. KIRK: Thank you.

22 MS. OSENBAUGH: Sorry.

23 THE WITNESS: Personal security. Like?

24 MR. JAMES: Object to the form.

25 THE WITNESS: I guess I don't know what

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1 County District Attorney on that incident?

2 A I did talk to one of the assistant
3 district attorneys. I don't remember her name. She
4 was over the juveniles.

5 Q Sorry. Didn't mean to talk over you. You
6 think you gave a statement to the assistant DA in
7 Cleveland County on that incident?

8 MR. JAMES: Object to form.

9 THE WITNESS: I'm sure I told -- I'm sure
10 I told the story.

11 Q (By Ms. Osenbaugh) Did you give -- did you
12 give any sort of statement to any of the district
13 attorneys in Cleveland County on this case?

14 MR. KIRK: Through the Rodriguez matter?

15 Q (By Ms. Osenbaugh) The Rodriguez matter,
16 I'm sorry.

17 MR. KIRK: Thank you.

18 THE WITNESS: No. I never.

19 Q (By Ms. Osenbaugh) You never talked to
20 anybody in Cleveland County District Attorney's
21 Office regarding this matter, the Rodriguez matter?

22 A No.

23 Q Okay. I kind of got off my -- let's go
24 back now. Sorry. We're back at Warren Theatre on
25 night of the Rodriguez incident. And I'm sorry if

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1 I'm going back to where I was, but you got called
2 out of the theatre and were informed there was a
3 fight; is that correct?

4 A Right. Yes.

5 Q And at that point, where are you located
6 in the theatre?

7 A I was standing by the main entrance doors
8 on the south side of the entrance.

9 Q Like kind of by like where you buy tickets
10 at the Warren Theatre?

11 A Yeah. Kind of right there by the diner,
12 if you're familiar with it. Kind of right there by
13 the wall by the diner.

14 Q Okay. And were you by yourself?

15 A I was standing there with Tyler Houser.

16 Q Did, and you may not know the answer to
17 this, but did Tyler and Mr. Clarkston typically work
18 evenings at the Warren Theatre?

19 A I believe so.

20 Q So it was unusual for you to be there in
21 the evening, but not necessarily for Tyler and
22 Mr. Clarkston?

23 A I wouldn't say unusual, but at that point
24 I was -- I liked to work the dayshift, so I usually
25 try to get the dayshift. But I'd worked nights

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1 before there on Fridays.

2 Q Do you work nights there now?

3 A If someone needs me to switch with them to
4 cover.

5 Q So just on random occasions?

6 A Right. Yeah.

7 Q What was the next thing, the next step
8 after you were called to the -- you were -- you said
9 you were at the south --

10 A Right.

11 Q -- of the ticket gate or whatever --

12 A Right.

13 Q By the diner.

14 A She said there was a fight going on.
15 People punching each other in the face. Asked
16 where.

17 Q Let me stop you right there. So the
18 individual -- who was this individual that was
19 telling you this, first of all?

20 A Just a female. I don't know her name.

21 Q She was a -- someone that had bought --
22 was at the theatre?

23 A I'm assuming she was a patron or customer.

24 Q And she told you that people were punching
25 each other in the face?

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1 A Yes.

2 Q What did you do then?

3 A Like, okay, where. And she pointed down
4 towards the north end of the building towards the
5 IMAX entrance.

6 Q What did you do next?

7 A I started walking -- I walked outside
8 looking and just started walking towards the IMAX
9 entrance.

10 Q Did you see anyone by the IMAX entrance
11 when you came out of the building?

12 A It's a long ways. I mean, there was
13 people, but nobody that stood out at that point.

14 Q How did you know who you were looking for
15 at this point?

16 A It was -- as I get a little further down
17 the sidewalk, there's a lady, another lady that's
18 leaned out beside her car parked in the fire lane
19 there. I believe she was smoking. And she sees
20 me -- she sees me and Tyler Houser is walking with
21 me. And she points and says "That's her." And
22 points towards a lady that's walking across the
23 parking lot.

24 Q So at this point you are looking for a
25 female; is that correct?

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1 she's -- she's going pretty quick. She's -- starts
2 heading towards her car and we're just trying to get
3 to her.

4 Q So at this point you're following her?

5 A Right.

6 Q Correct?

7 A Uh-huh.

8 Q Is there people swinging at each other in
9 some various other part of the parking lot?

10 MR. JAMES: Object to form.

11 THE WITNESS: I didn't see anybody
12 swinging.

13 Q (By Ms. Osenbaugh) Do you see blood or
14 screaming or yelling anywhere else in the parking
15 lot?

16 A No.

17 Q Okay. So you head towards her. Do you
18 get to her?

19 A I do not.

20 Q Where do you get to?

21 A I see two other individuals coming up fast
22 behind here. Looked to be walking aggressively like
23 they're trying to get to this person. So I go
24 towards them and try to intervene.

25 Q And what -- who were these individuals?

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1 Male, female?

2 A It was a male and a female. And, I mean,
3 later, I guess, it would be but Luis Rodriguez and I
4 don't know the daughter's name.

5 Q Were they fighting, arguing when you came
6 up on them?

7 MR. JAMES: Object to form.

8 THE WITNESS: Not -- no. They weren't
9 fighting each other, no.

10 Q (By Ms. Osenbaugh) Were they speaking?

11 A No. They were just coming -- they were
12 just kind of walking fast towards the other lady.

13 Q Did someone get to her or --

14 A Tyler Houser went towards her.

15 Q How did you even know to go to these other
16 individuals?

17 A Just body language. I could tell that
18 there was a disturbance and you could tell that this
19 guy was coming, looked mad and was coming fast at
20 this lady. And so I was --

21 Q So the man that you were approaching, was
22 his back to you or was his front to you?

23 MR. JAMES: Object to form.

24 THE WITNESS: His front. It was kind of
25 45 degrees.

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1 Q (By Ms. Osenbaugh) How did you know he was
2 I think you used the word angry?

3 A He just -- he just -- you could just tell.
4 You knew that they were -- he was agitated, I mean,
5 just by the way he was walking, stomping. And just
6 was --

7 Q So this man who we know is Luis Rodriguez
8 and his daughter are walking across the parking lot.
9 And you perceive them to be -- you perceived him,
10 sorry, to be angry? What -- I want to know what
11 details made you believe that?

12 MR. JAMES: Object to form.

13 THE WITNESS: Just got the lady that's in
14 front is moving faster than the normal flow of
15 traffic. Got this guy moving faster than her
16 trying to catch up to him. Just -- he didn't
17 look happy.

18 Q (By Ms. Osenbaugh) What made you believe
19 that you needed to intervene?

20 A That's what they pay me to be there for.

21 Q But you agree that no one was fighting or
22 screaming or yelling or doing anything at that time?

23 A At that time, no.

24 Q Ms. Rodriguez, the lady that Tyler goes up
25 to --

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1 A Right.

2 Q That we know to now, was she screaming
3 that she needed help?

4 A I didn't hear any screaming.

5 Q So you intervene solely based on the fact
6 that someone was walking fast across the parking
7 lot?

8 MR. KIRK: Object to the form of the
9 question. You can answer it, Chad.

10 THE WITNESS: No. I responded solely to
11 the fact that I had report of a crime that
12 occurred in the parking lot.

13 Q (By Ms. Osenbaugh) What was the crime?

14 A At the very least it was assault. And it
15 ended up being domestic abuse.

16 Q Did you arrest someone for domestic abuse?

17 A I did not.

18 Q Did anyone?

19 A I don't know.

20 Q Who did you find out did the domestic
21 abuse?

22 MR. COOPER: Object to form.

23 THE WITNESS: Mr. Rodriguez admitted that
24 his wife had punched his daughter.

25 Q (By Ms. Osenbaugh) Punched his daughter?

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1 A Yeah. Hit his daughter.

2 Q So what happened next? You come up to
3 Luis Rodriguez and his daughter and then what do you
4 do?

5 MR. JAMES: Object to form.

6 THE WITNESS: I just kind of -- I'm trying
7 to slow him down because I don't know what's
8 going on. I just see this guy coming up fast
9 trying to get to this other person. And if
10 they were fighting, I don't want it to
11 continue, so I'm trying to keep, trying to
12 separate the parties.

13 Q (By Ms. Osenbaugh) Do you speak to
14 Mr. Rodriguez?

15 A I do.

16 Q What do you say?

17 A I don't remember verbatim. But...

18 Q I didn't ask verbatim. Just tell me what
19 you remember saying.

20 A Like, guys, what's going on, you know.
21 Have report there's a fight going on out here.

22 Q And what does he say?

23 A It's none of your business.

24 Q What else did he say?

25 A I got a report there's people hitting each

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1 other out here. He's, like, he -- he replies it's
2 a -- it's a family matter. You know, I explained
3 that, you know, I got a report of people are hitting
4 each other. What's going on. After several it's a
5 family matter he -- he finally says okay. Okay. My
6 wife hit my daughter.

7 Q So why, at that point, wasn't it dropped
8 with Mr. Rodriguez and his daughter?

9 MR. JAMES: Object to form.

10 THE WITNESS: Because this whole time he's
11 trying to step around me. And what I think is
12 to get to -- and I don't know who's the
13 daughter and who's the mom at this point. I
14 don't know who's -- who's --

15 Q (By Ms. Osenbaugh) Did the daughter speak
16 to you?

17 A No.

18 Q The daughter never said anything?

19 A Not that I remember.

20 Q The daughter never confirmed that, yes, my
21 mom hit me?

22 A I don't remember her saying that.

23 Q You never heard her say that her mom had
24 slapped her to any of the other police officers
25 involved?

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1 A I don't know what she said to the police
2 officers.

3 Q So the only thing you recall hearing is
4 Mr. Rodriguez say to you that his wife had you said
5 hit, slapped, hit his daughter?

6 MR. JAMES: Object to form.

7 MR. KIRK: Object to form. You can answer
8 it, Chad.

9 Q (By Ms. Osenbaugh) Hit her daughter?

10 A Yes. His wife hit his daughter.

11 Q That she had hit his daughter?

12 A Yeah.

13 Q Had it -- did -- the daughter wasn't
14 saying anything? You didn't see any blood? You
15 didn't see anybody crying out for help and these
16 parties were apart from each other; is that correct?

17 MR. JAMES: Object to form.

18 THE WITNESS: They were apart at that
19 time. They were trying to get back together,
20 but, yes.

21 Q (By Ms. Osenbaugh) What -- what did you do
22 next?

23 A Once he had said that, okay, my wife hit
24 my daughter, at that point he was -- he was the very
25 least a witness to a domestic crime. I'm like,

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1 okay. Do you guys got some ID? Asked for both the
2 daughter and him for ID. And he -- he refuses.

3 Q (By Ms. Osenbaugh) What was an ID going to
4 do at this point?

5 A One, at this point I'm out there by
6 myself, so it's just officer safety. If I know that
7 there's a crime going on, I'm going to get their ID
8 so if I end up getting killed maybe I'll still have
9 this guy's ID as I'm laying out there in the parking
10 lot.

11 Q So you think this guy was going to kill
12 you?

13 A He was -- he wasn't -- he was mad. And
14 he -- he wasn't complying.

15 Q Did you ever say "Sir, can you just stand
16 here for a minute"?

17 A He kept trying to step around me. I was,
18 like, no. I need to talk to you.

19 Q No, no, no. That's not my question. Did
20 you ever ask him, "Sir, can you stand here for a
21 minute"?

22 A No.

23 Q Why?

24 MR. KIRK: Now tell her.

25 THE WITNESS: Because he kept trying to

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1 stand around -- I mean, he kept trying to step
2 around me.

3 Q (By Ms. Osenbaugh) Wouldn't it be common
4 sense though if someone's trying to step around you
5 say, "Sir, I just need you to stand here for a
6 minute while I figure out what's going on"?

7 MR. KIRK: Objection to the form of the
8 question. You can answer it, Chad.

9 THE WITNESS: I don't know that it would
10 be common sense. It's just what I did.

11 Q (By Ms. Osenbaugh) Let's say he gives you
12 his ID and he still tries to walk around you. How
13 did that -- what was the ID going to solve in this
14 instance?

15 MR. COOPER: Object to form.

16 Q (By Ms. Osenbaugh) Because you don't
17 believe he's the party that did anything, correct?

18 MR. COOPER: Object to form.

19 THE WITNESS: I don't know that.

20 Q (By Ms. Osenbaugh) So you think he's the
21 one that did something wrong at this instance that
22 we're talking about at this time?

23 MR. JAMES: Object to form.

24 THE WITNESS: At this time I'm trying to
25 do -- throw together a little investigation to

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1 find out what happened.

2 Q (By Ms. Osenbaugh) I understand that.

3 A So I knew, just because someone says I'm
4 not involved, don't always mean they're not
5 involved.

6 Q I understand that, so you -- but you
7 understand that this individual said I didn't --
8 that his wife hit her and you don't -- the daughter
9 doesn't say anything. And you're -- that's your
10 testimony that the daughter says nothing?

11 A Right.

12 Q So dad's just standing there trying to
13 step around you?

14 A Right.

15 MR. COOPER: Object to form.

16 Q (By Ms. Osenbaugh) What happens after you
17 ask for his ID?

18 A That's about when the two on duty Moore
19 officers arrive along with the other security
20 officer Bryan Clarkston.

21 Q Where are you standing at?

22 A In the parking lot.

23 Q I'm sorry. That was a bad question.

24 Where are you standing at with regards to

25 Mr. Rodriguez? Are you behind him? Are you in

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1 front of him? Are you, like how -- in his face?

2 A I'm not in his face.

3 MR. JAMES: Object to form.

4 THE WITNESS: We're face to face. And I'm
5 And I'm trying to maintain a safe distance away from
6 him, but he keeps stepping towards me trying to step
7 around me. So there's times that we get closer and
8 I back up.

9 Q (By Ms. Osenbaugh) Did Mr. Rodriguez raise
10 his arms at you at any point?

11 A Not at that point, no.

12 Q And so he says he's not going to give you
13 his ID. Then what happens?

14 A I'm in the process of telling him, you
15 know, he's very list a witness to the crime. He --
16 we need to see some ID so we can figure out what's
17 going on.

18 Q Who's the next officer that is on the
19 scene with you?

20 A They all -- well, they all -- all three of
21 them show up at the same time.

22 Q I'm sorry. And just so that I am fully
23 understanding, all three of them meaning who?

24 A The ones I said a minute ago. Bryan
25 Clarkston and the two on duty officers. I'm not 100

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1 percent sure their names.

2 Q Where is Tyler at this point?

3 A He is still with the other lady at --
4 behind us.

5 Q So the other two officers walk up, you're
6 still face to face with Mr. Rodriguez. And then
7 what occurs?

8 A There was three officers, the off duty --
9 Clarkston that was security and the two on duty
10 officers. Basically they walk up and I kind of, I
11 look at them and give them the look. You guys are
12 on duty. It's your baby. You know, I just -- I've
13 detained, kept the parties separated at that point
14 for them to take over the investigation.

15 Q So do you step back, you step to the side,
16 do you run back up to the building? What do you do?

17 A I kind of step back. Back off to the side
18 just a little bit.

19 Q Okay. Then what do you witness happen?

20 A The officer that don't have glasses, I
21 don't know, I don't know his name.

22 Q Well, we might as well, let's see if we
23 can identify everybody. I think that would be
24 easier. So we'll mark this.

25 MR. COLLINS: Take a break if we can.

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1 MR. COOPER: If you want to use that.

2 MS. OSENBAUGH: Yeah. Let's go ahead. If
3 you don't mind.

4 THE WITNESS: I don't know if it will work
5 or not. I'm colorblind, I can't see red.

6 Q (By Ms. Osenbaugh) Just go ahead put your
7 initials where you're at and the other individuals
8 that you know so I can have a clean record. That
9 looks like that shows up. Thank you.

10 Okay. And so I want to go back for
11 just a second. When you were asking Mr. Rodriguez
12 for his driver's license, what would you have done
13 with it when he handed it to you? Would you have
14 gone somewhere and ran it or what were you going to
15 do with it?

16 A When the officers showed up, I'd have
17 given it to them.

18 Q So you were just going to stand there and
19 hold it until somebody got there?

20 A Right. I mean, we were trying to get
21 everything under control.

22 Q What was out of control when you asked him
23 for his driver's license?

24 A He had a -- kind of volatile, it seemed.
25 You know, reported a crime and Mr. Rodriguez

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1 appeared to be agitated, kept trying to step around
2 me towards -- towards this other female.

3 Q I guess I just don't -- I want to know
4 what your definition of volatile is in this
5 instance? What was going on that was volatile?

6 A I didn't know who the main aggressors were
7 in this fight. I didn't want it to blow back up
8 again. I wanted to keep everybody separated.

9 Q But you were told it was not Mr. Rodriguez
10 by Mr. Rodriguez and his daughter didn't say "No, my
11 dad hit me," did she?

12 A She didn't say anything. And he -- and he
13 said that it was my wife hit my daughter.

14 Q Did you have any reason to believe this
15 wasn't true at this point?

16 A Just that he kept trying to get around me.
17 I was afraid he was going to go either finish
18 something or there was going be some retribution. I
19 didn't want -- I didn't want them two to get
20 together, you know, if something would happen like
21 that.

22 Q When you first walked out of the theater
23 to figure out what was going on --

24 A Uh-huh.

25 Q -- there was a lady, you said, by the car

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1 you think maybe smoking that said "This is her." So
2 what, at any point, was your indication that this
3 had anything to do with a male?

4 MR. COOPER: Object to form.

5 THE WITNESS: That this male was coming up
6 fast behind her to get to her.

7 Q (By Ms. Osenbaugh) But you didn't have any
8 indication that a male had done anything wrong at
9 the point you walk out of the theater?

10 MR. KIRK: Object to the form.

11 THE WITNESS: I didn't know what was going
12 on when I walked out of the theater. That's
13 why I was having to investigate to figure out
14 what was going on.

15 Q (By Ms. Osenbaugh) Why would someone say
16 "This is her. That's her." Wouldn't that mean
17 that's the person that did the hitting?

18 MR. JAMES: Object to form.

19 MR. KIRK: Same objection.

20 THE WITNESS: Or it could mean it was the
21 victim. I don't know. That's why we have to
22 investigate.

23 Q (By Ms. Osenbaugh) Okay. So you get to
24 Mr. Rodriguez and he says "My wife hit my daughter."
25 Did you have any reason to believe that was not

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1 true?

2 A It was just the way he was acting and not
3 cooperating, I didn't know if that was the whole
4 story or not.

5 Q How was he not cooperating?

6 A He kept trying to get around me to -- to
7 this other lady.

8 Q Did you put him under arrest?

9 A No.

10 Q Did he have any reason not to be able to
11 walk to his car?

12 A I was -- we were -- there was a crime that
13 had occurred and we were trying to separate the
14 parties.

15 Q How did you know a crime had occurred if
16 you didn't see it?

17 A Well, I had been told an assault had
18 happened. Then at that point he had just admitted
19 that a domestic battery had occurred.

20 Q But not by him, so you didn't detain him?

21 MR. KIRK: Object to the form.

22 THE WITNESS: I was keeping the parties
23 separated until the on duty officers arrived.

24 Q (By Ms. Osenbaugh) And you were able to
25 keep them separated, correct?

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1 A Yeah.

2 Q And so then the other officers come up and
3 you step back and let them take over; is that
4 correct?

5 A Yes.

6 Q Then what occurs?

7 A What you wanting? I guess I don't know
8 what you want.

9 Q So did Mr. Rodriguez, did you say anything
10 further to Mr. Rodriguez?

11 A No.

12 Q Did anybody else say anything to
13 Mr. Rodriguez?

14 A The Moore officers started talking to him.

15 Q And what -- what did he say?

16 A Basically the same -- same stuff, you
17 know. Domestic battery has apparently occurred.
18 You're a witness to that crime. We're
19 investigating. We're going to need everybody's IDs.

20 Q What were you guys going to do with the
21 IDs?

22 A At this point it was what Moore PD was
23 going to do with their IDs. I was going to hand it
24 to them, and they were going to -- they were on duty
25 and they were going to take care of the

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1 investigation at that point.

2 Q Did you guys ask for the IDs of the
3 intoxicated people in the -- in the theater?

4 A Yes.

5 Q Did they gave give them to you?

6 A I believe so.

7 Q What did you guys do with them?

8 A Found out who they are. I guess -- I
9 don't know if they -- if they ran them or not. I
10 don't know.

11 Q Did you think that Mr. Rodriguez was an
12 illegal alien?

13 A No.

14 Q What were you going to -- I'm sorry.
15 Strike that.

16 So the other officers, you said, do
17 the same as you. What -- asked for his ID again?

18 MR. COOPER: Object to form.

19 THE WITNESS: I don't remember what I said
20 when I said do the same. What was that in
21 reference to?

22 Q (By Ms. Osenbaugh) You said the other
23 officers showed up and stepped back and they talked
24 to him. And what exactly did they talk to him
25 about? You -- I don't know. Maybe I lost my train

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1 of thought.

2 A Basically, again, that the crime -- they
3 explained that a crime had occurred. He was a
4 witness to that at the very least. And by law, you
5 know, they have to cooperate with that
6 investigation. He, again, refused to give them ID.
7 They explained to him several times -- asked him
8 several times for his ID.

9 Q Did Mr. Rodriguez speak clear English?

10 A It was clear -- it was slurred. I -- he
11 had real thick slur to his voice. But as far as
12 English went, it was legible English.

13 Q Do you think that he understood everything
14 that was going on?

15 MR. JAMES: Object to the form.

16 MR. KIRK: Object to the form. You can
17 answer it, Chad.

18 THE WITNESS: I don't know how I could
19 know.

20 Q (By Ms. Osenbaugh) So you don't know if he
21 understood or he didn't understand?

22 A Right. I mean, he -- he knew that he
23 wanted to say no. That's all I know.

24 Q Well, we know now at some point other
25 things transpired after these other officers come

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1 up. So what was the next course of action that
2 happened? Did Mr. Rodriguez, again, try to step
3 around someone?

4 A No. They -- officers asked him again for
5 his ID. Explained to him again that it was an
6 investigation. He needed to cooperate. He refused.
7 He --

8 Q How was he standing?

9 A At that point he was like this.
10 (Indicating). He -- he went to a closed up. And he
11 was -- you could tell he didn't -- he didn't want to
12 be there. The officer explained to him, you know,
13 if you don't cooperate, we're going to be forced to
14 place you under arrest. And that's -- that's when
15 Mr. Rodriguez stepped back to a stance like this
16 (Indicating).

17 Q Stepped back away from the officers?

18 A Spread his feet in kind of a boxer stance
19 when I say he put one foot back, kind of like you're
20 loading up to throw a punch.

21 Q Did he actually ever raise his arms?

22 A Not at that point, no.

23 MR. JAMES: Object to form.

24 THE WITNESS: I mean, when you say raise,
25 I don't --

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1 Q (By Ms. Osenbaugh) Did -- I mean, you say
2 that he was standing in a -- sorry, in a boxer pose.

3 A I mean, he did, he came up, I guess, he
4 raised them up to a fighting stance.

5 Q So you're testifying today that he put his
6 hands in a fighting stance like this (indicating)
7 like he was going to fight?

8 A Like this. (indicating).

9 Q And so if nobody else has testified to
10 that, that's just what you recall?

11 MR. KIRK: Object to form.

12 MR. JAMES: Object to form. And I object
13 to your characterization of what he's doing
14 because it wasn't the same thing. So I -- even
15 though we've got a video, I'm objecting for the
16 written record. Your characterization was
17 different than his.

18 MS. OSENBAUGH: That's good. That's
19 perfect. Object to the form. I got it.

20 Q (By Ms. Osenbaugh) Sir, would you, please,
21 for the video sake, show where his arms were, in
22 your mind, at the time that she stepped back from
23 the officers?

24 A (Witness complies).

25 Q So you're saying that they were higher

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1 than his waist?

2 A Somewhere in there. All I really remember
3 seeing is clenched fists and this guy's fixing to
4 throw a punch.

5 Q Have you watched the surveillance video?

6 A Just on the news.

7 Q How did you feel about that video when you
8 saw it?

9 MR. KIRK: Just a minute. Object to the
10 form. Which video are we talking about?

11 MS. OSENBAUGH: The surveillance video
12 from Warren Theatre.

13 MR. KIRK: Thank you.

14 Q (By Ms. Osenbaugh) Have you watched the
15 surveillance video from Warren Theatre?

16 A Yes.

17 Q How did you feel about that video?

18 MR. KIRK: Object to the form. Vague.
19 You can answer it, if you can, Chad.

20 THE WITNESS: I felt it was poor qualify.
21 Not very clear.

22 Q (By Ms. Osenbaugh) Did you see the video
23 that Nair Rodriguez had taken at the scene of the
24 incident?

25 A Yes.

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1 Q What did you think of that video?

2 MR. KIRK: Same objection. You can answer
3 it, Chad.

4 THE WITNESS: I don't know what you -- I
5 don't know what I think about it.

6 Q (By Ms. Osenbaugh) Was it a fair depiction
7 of the scene of events that occurred?

8 A It was a thin slice of time that it was on
9 video that was kind of taken out of context, I
10 believe.

11 Q Okay. So why did you think that
12 Mr. Rodriguez was going to throw a punch?

13 MR. COOPER: Object to form.

14 THE WITNESS: Again, he -- he had his fist
15 clinched and was standing in a fighting stance.

16 Q (By Ms. Osenbaugh) What occurred next?

17 A One of the officers reached for his hand,
18 we saw it balled up. And I don't know -- I don't
19 know what he was doing. If he was going to try to
20 put him in an arm bar or try to control that hand so
21 he doesn't hit the other officer.

22 Q Did Mr. Rodriguez swing at any of the
23 officers?

24 A Not -- no.

25 Q So this officer grabs his arm for some

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1 reason. You don't know why; is that correct?

2 A If I had been closer, I would have grabbed
3 it so he wouldn't have been able to throw it. I
4 would have got control of that arm so he wouldn't be
5 able to throw the punch. But I wasn't close enough
6 and that officer did what he needed to do.

7 Q But you agree he wasn't swinging his arms?

8 A Well, once a swing starts, it's hard to
9 stop it so you try to get them stopped before they
10 --

11 Q That's not my question. Did you see
12 Mr. Rodriguez swing his arm at any officer at any
13 point?

14 A No.

15 Q So the officer grabs his arm. You don't
16 know why, correct?

17 MR. KIRK: Object to the form. That's not
18 what he said.

19 THE WITNESS: I know why.

20 Q (By Ms. Osenbaugh) Well, you said -- no.
21 Let's clarify here because you've said two different
22 things now. You said you might have done that. But
23 you also said you're not sure or why or how he did
24 it. You said something about an arm bar or you
25 don't know what?

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1 A I said I didn't know what technique --

2 MR. COLLINS: Object to the form.

3 THE WITNESS: What technique he was going
4 to use. If he was just going to hold him to
5 keep him from throwing a punch or if he was
6 going to use an arm bar and take him --

7 Q (By Ms. Osenbaugh) What occurred then?

8 MR. KIRK: Just a minute. were you
9 finished with your answer? Were you finished
10 saying what you were going to say?

11 THE WITNESS: Yeah. I didn't know if he
12 was going to take him to the ground or what.
13 I'm done.

14 Q (By Ms. Osenbaugh) Okay. What occurred
15 then?

16 A Mr. Rodriguez basically yanked his arm
17 back and pulled that officer off his feet. Kind of
18 pulled him up in the air. And kind of spun around
19 with him. And they went running, falling across the
20 parking lot kind of a deal.

21 Q So your testimony is that this officer
22 went flying in the air?

23 A He was --

24 MR. COOPER: Object to form.

25 THE WITNESS: His feet were off the

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1 ground.

2 Q (By Ms. Osenbaugh) Then what -- what did
3 the rest of you do at this point?

4 A Ran to their location when they hit the
5 ground to try to get -- get the suspect under
6 control.

7 Q Now he's a suspect?

8 A Well, he just assaulted an officer.

9 Q So a witness -- you said that he was a
10 witness.

11 A Uh-huh.

12 Q Why did the officer need to touch him?

13 MR. COOPER: Object to form.

14 THE WITNESS: Because he was -- had his
15 hands in a fighting position and for officer
16 safety, he was going to get him under control
17 for -- before anything happened. And, you
18 know, he was not -- he was refusing to comply
19 with investigation.

20 Q (By Ms. Osenbaugh) Was there not any other
21 way that you could have used to get the situation
22 under control?

23 MR. KIRK: Object to the form.

24 MR. JAMES: Object to the form.

25 MR. KIRK: You can answer it, Chad.

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1 Q Did someone pull out a gun?

2 A No.

3 Q So one of the Moore police officers,
4 again, you don't know -- do you know which one in
5 this picture that grabbed his arm?

6 A It would be this one with the ball cap and
7 glasses.

8 Q What happened next after he and
9 Mr. Rodriguez moved from the parking lot?

10 A They -- they fell to the ground. And I'm
11 not sure what everybody else did. I know I ran over
12 there to assist that officer that was on the ground
13 with the -- with Mr. Rodriguez.

14 Q What did you do? Did you help the officer
15 to his feet?

16 A No. Mr. Rodriguez was actively resisting.
17 Rolling around, kicking, trying to get up like he
18 was trying to run.

19 Q So what did you do?

20 A When he landed, he had his right arm under
21 him. So I ran up to his right side and proceeded to
22 try to get his right hand out from under him so we
23 could place him in handcuffs.

24 Q Did you get him in handcuffs?

25 A No, I did not.

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1 Q Do you know what any of the other officers
2 were doing?

3 A No. I mean, other -- common sense would
4 say they were trying to get him in handcuffs.

5 (Exhibit 1 was marked for
6 identification).

7 Q (By Ms. Osenbaugh) It appears in this
8 picture, and you've identified yourself in
9 Plaintiff's Exhibit Strang 1 as the individual here
10 that has Khaki pants on, that's correct?

11 A Uh-huh.

12 Q It appears in this picture that you're
13 hands are holding his face down. Is that accurate?

14 A He was raising his head up and down
15 hitting it on the concrete trying to get up, so I
16 stabilized his head from being able to raise up.
17 Keep him from getting up.

18 Q There's four other officers and it was
19 necessary to hold his head down, correct, into the
20 pavement?

21 A He was still actively getting up at that
22 point.

23 Q Did anybody get him in handcuffs?

24 A Eventually, yes.

25 Q How long did you hold his head down like

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1 that?

2 A I stabilized his head as long as it took
3 for them to get his cuffs on him, once I was in that
4 position.

5 Q And was his face bloody?

6 A His face was turned away from me.

7 Q Did he ever turn his head the other
8 direction?

9 A I never -- I don't remember seeing his
10 face.

11 Q Well, did you see his face afterwards when
12 he sat up?

13 A No. Because he was -- he was actually
14 leaned up against my leg looking away from me. I
15 never seen his face.

16 Q So you didn't see his face during the time
17 that you were holding him down? You didn't see his
18 face afterwards?

19 A I seen him in the ambulance, but --

20 Q Okay. Do you recall if his face was
21 bloody?

22 A No.

23 Q Would there be a reason why his face would
24 be bloody?

25 MR. JAMES: Object to form.

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1 THE WITNESS: Because before I was
2 stabilized his head, he was, like I said,
3 raising up. His head kept coming up and back
4 down on the concrete as he was trying to get
5 put. It was like he was head butting the
6 concrete.

7 Q (By Ms. Osenbaugh) Well, if you were
8 stabilizing his head on the concrete, how was his
9 head butting the concrete?

10 MR. COOPER: Object to form.

11 THE WITNESS: That was before I got into
12 that position.

13 Q (By Ms. Osenbaugh) So he was head butting
14 the concrete and then you pushed his face down and
15 held it there?

16 A I stabilized it where he couldn't raise it
17 up.

18 Q Did you ever hit or kick Mr. Rodriguez?

19 A No.

20 Q Did you ever deliver knee strikes to the
21 left side rib area?

22 A I deliver knee strikes. I don't believe
23 they were to the rib area. Kind of upper shoulders
24 is where I was aiming.

25 Q Why did you need to deliver knee strikes

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1 period?

2 A The struggle. Him resisting had been
3 going on for quite a while. And when I turned
4 around and seen they were still fighting, went back
5 to get his left arm, which was up underneath him.
6 And didn't know what he was -- what he had under him
7 or what he was doing. And in order to get him
8 handcuffed, I needed that arm. So I tell him "Give
9 me your left arm." He doesn't comply. I gave him a
10 knee strike. Purposely avoiding the ribs, because I
11 was like, I didn't want to break this guy's ribs.
12 And give him a knee strike. I gave him another
13 command. "Give me your left arm." Doesn't give me
14 his left arm. I deliver another knee strike.

15 Again, I give him another command,
16 "Give me your left arm." He gives me his left arm.
17 I place it behind his back and push it back and then
18 I hold it back there while they're handcuffing him.

19 Q How many total officers were on the scene
20 at this point?

21 A All the ones in the picture.

22 Q How many?

23 A Five.

24 Q Five officers?

25 A Uh-huh.

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1 Q And so it -- in addition to the five
2 officers, it also took you giving him knee strikes
3 while he's pinned down; is that correct?

4 A Yes.

5 Q And you say that you didn't give it to the
6 rib area. If there's other statements and testimony
7 that you did deliver knee strikes to the rib area,
8 then that would be inaccurate?

9 A I was -- I wasn't aiming for the rip area.
10 I was aiming -- I was trying to aim more shoulder
11 blade right in there. That's where I was aiming.

12 Q As you sit here today, do you still
13 believe the knee strikes were necessary at this
14 moment?

15 A Yes. They -- he -- he, after the two, he
16 did give me his left arm. And we was able to get
17 them behind him to get him handcuffed.

18 Q When you watched the video that Nair
19 Rodriguez filmed at the scene, did you believe that
20 those knee strikes were necessary in the moment?

21 A I didn't see any knee strikes on her
22 video.

23 Q Did you see any officers hit Luis
24 Rodriguez?

25 MR. JAMES: Object to form.

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1 THE WITNESS: I -- I did. I did see an
2 officer.

3 Q (By Ms. Osenbaugh) Can you identify which
4 officer it was?

5 A Yes. It's going be this other -- this guy
6 here.

7 Q And where --

8 MR. KIRK: For the record, the witness is
9 pointing to the officer to Mr. Rodriguez's
10 right and closest to his head area in Exhibit
11 1.

12 Q (By Ms. Osenbaugh) Where did you see --
13 you don't know who this officer is; is that correct?

14 A No. He was one of the on duty guys.

15 Q And did you see where he hit
16 Mr. Rodriguez?

17 A Yes.

18 Q Where did he hit him?

19 A Kind of in the forehead.

20 Q Did you think that that was in excess of
21 what needed to happen at the moment?

22 A No.

23 Q Why not?

24 A I was -- at this point, I wasn't -- when
25 he's do the hitting, I'm standing over here keeping

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1 the wife back, so I turn around and he -- he is more
2 up here. Guy's got his, Mr. Rodriguez has got both
3 his hands underneath him. And he's trying to get
4 his arms out. Again, don't know what he's got under
5 him in his waistband.

6 I seen him deliver, I -- I think it
7 was two just real quick little bitty. They weren't
8 even -- didn't look very hard at all. Just two
9 little rabbit punches in the forehead telling him,
10 "Give me your hands." Pop. And then I turned back
11 around, because Mrs. Rodriguez was screaming, so I
12 -- my attention was diverted back to her.

13 Q Why -- you keep saying something about the
14 waistband. Was there some reason that you guys
15 believed he had a weapon?

16 A No.

17 Q Did you see a weapon?

18 A No.

19 Q Did he ever indicate that he had some sort
20 of weapon on him?

21 A No.

22 Q Was that the only time that you saw an
23 officer hit Mr. Rodriguez?

24 A Yeah. Those two little punches.

25 Q Well, this is -- I'll mark this as and

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1 misleading and inaccurate.

2 MS. OSENBAUGH: And you can object --

3 MR. KIRK: No. I'm not instructing him to
4 do anything. I'm asking you to stick to the
5 evidence in the case and not make up stuff,
6 Mrs. Osenbaugh.

7 MS. OSENBAUGH: I'm not making anything
8 up.

9 MR. KIRK: You are making something up.
10 None of these pictures show any officers on top
11 of your client's deceased husband. They're
12 holding him down.

13 MR. JAMES: Or kicking him is my
14 objection.

15 MR. COOPER: To be clear, is Exhibit 3 the
16 same as Exhibit 1?

17 MS. OSENBAUGH: No.

18 MR. COLLINS: Can we see it?

19 MR. COOPER: Can we see a copy?

20 MR. KIRK: The question, Mr. Strang, is
21 why would five officers need to kick or hit
22 Mr. Rodriguez. And then Ms. Osenbaugh contends
23 while the officers were on top of
24 Mr. Rodriguez.

25 THE WITNESS: Officers would use pain

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1 compliance to get this -- get the subject to
2 comply where they can get him in handcuffs
3 would be the only reason they would hit him.
4 Anyone would hit or kick a subject.

5 Q (By Ms. Osenbaugh) I'm sorry to go
6 backwards, but I don't think I asked you this. When
7 Mr. Rodriguez stepped back with his hands clenched,
8 was that the only thing that occurred that caused
9 you to think that he was being aggressive?

10 MR. JAMES: Object to form.

11 Q (By Ms. Osenbaugh) And that's my word, not
12 yours, so I apologize. You kind of had told us
13 earlier that you thought he might punch someone?

14 A Right.

15 Q Okay. I'm not trying to put words in your
16 mouth, but is there any other mannerisms or things
17 that he did that caused you concern at that point?
18 And this is before you -- they went to the ground.

19 MR. JAMES: When you say -- I object to
20 the point right when it happened or all the
21 facts that leading up to the happening.

22 MS. OSENBAUGH: No. Just right -- I'm
23 just talking about when he steps backwards.

24 THE WITNESS: I just -- to me, that's a
25 clear, we're fixing to fight stance is what

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1 that was.

2 Q (By Ms. Osenbaugh) I just want to clarify,
3 though. You did not see him swing his arms?

4 A No. I mean, other than when the officer
5 had ahold of him. He swung the officer around.

6 Q So every time that you were in a situation
7 where an individual stepped backwards, in your
8 experience and you would take it that they're going
9 to fight?

10 MR. JAMES: Object to form.

11 THE WITNESS: If someone takes a fighting
12 stance, I usually feel that they're wanting to
13 fight.

14 Q (By Ms. Osenbaugh) Did you ever ask
15 Mr. Rodriguez what his name was?

16 A I didn't, no.

17 Q Did you ask him any other questions
18 regarding the incident that had been reported to
19 you? We know that you asked for his ID, but did you
20 say, "Man, tell me what happened? What's going on?"

21 A Yeah, I did.

22 Q And what --

23 A That's when he was like, it's a family
24 matter. No. Something happened because we got a
25 report that people are being hit out here. That's

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1 when he said, okay, okay. My wife hit my daughter.

2 Q Did you ask any other questions inquiry or

3 --

4 A No.

5 Q Why?

6 A Because that's about the time that the
7 other officers that were on duty were walking up, so
8 I was letting them take it over.

9 Q Did anybody else investigate and ask
10 questions?

11 A They were -- they were trying to. He
12 wasn't --

13 Q What did they try to ask?

14 A Well, they explained to him --

15 Q Besides for an ID, sorry.

16 A Well, basically that's as far as they got.
17 You know, that's, you know, first part of the
18 investigation figure out who they're talking to.
19 And never was able to get past that.

20 Q So really no other questions were asked
21 besides his ID?

22 MR. KIRK: Object to the form. You can
23 answer it, Chad.

24 THE WITNESS: Not that I remember.

25 MR. JAMES: I think that's a

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1 MR. COOPER: Object to form.

2 Q (By Ms. Osenbaugh) -- at the time that he
3 steps back?

4 A I just -- I didn't know who he was
5 fighting. I just knew he was in a fighting stance.

6 Q He wasn't facing his daughter, though,
7 correct?

8 A No.

9 Q Did any of the officers talk to his
10 daughter when they walked up?

11 A I don't remember. I don't think so.

12 Q Was his daughter yelling or talking or
13 screaming at the time that the other officers walk
14 up or thereafter?

15 A I don't remember any yelling or screaming.

16 Q You had mentioned earlier in the depo,
17 though, that you did recall Nair yelling and
18 screaming when she walked up?

19 MR. COLLINS: Object to form.

20 THE WITNESS: Earlier I was talking about
21 when it was on the ground.

22 Q (By Ms. Osenbaugh) Okay. So let's go back
23 to that. You said that you stopped what you were
24 doing because she was screaming?

25 A Yes.

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1 Q Okay. What did you do?

2 A Once they hit the ground the first time
3 and I was trying to get his right arm, that's when
4 the -- turned out to be the wife come running up.
5 She's reaching in her purse. I just happen to look
6 up. She's reaching in her purse. So I -- they kind
7 of, the whole pile kind of pushes past me and I
8 stand up to go make sure she's not going to pull a
9 weapon and keep her back. Just basic domestic abuse
10 case, you know. Keep -- keep them separated.

11 Didn't want the -- didn't want her to
12 come over there and start hurting officers. So I'm
13 keeping her back. And she -- of course, she's --
14 she's yelling and screaming but mainly at him. And
15 --

16 Q What is she saying?

17 A She -- she just keeping saying Poppy.
18 What I -- what I remember the most.

19 Q But then -- then you go back and put your
20 hand back on his head after that?

21 A After that I go and turn around and they
22 still haven't got it -- they're still -- he's still
23 resisting. You know, they're still telling him,
24 stop resisting. Trying to get -- they don't have
25 any of his hands behind his back to get him in the

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1 handcuff position at that point.

2 So I feel that she -- she hadn't
3 pulled a weapon. And we need -- this -- we need to
4 get this guy, hurry up and get him in handcuff to
5 get the situation calmed down. So I did go back.
6 And then I did get back in basically that position
7 where I'm stabilizing his head because that's when I
8 noticed he was raising his head up.

9 Q You didn't think that the other four could
10 handle it?

11 A Well, they hadn't got him under control at
12 that point.

13 Q What was Tyler Houser doing to help in
14 this situation? In -- I'm sorry. I'll refer to
15 Plaintiff's Exhibit 3. Where's he at and what's he
16 doing?

17 A I -- he's back here at the -- at the back.
18 And I can't -- I don't know what he's doing.

19 Q And what about Mr. Clarkston, where he's
20 at in Plaintiff's Exhibit 3?

21 A He's right next to me. And -- and that
22 picture, he's trying to connect the two handcuff --
23 they got -- they got a set of handcuffs on each of
24 Mr. Rodriguez arms at that point. We're trying --
25 he's still fighting. We're trying to get his arms

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1 back so we can hook the handcuffs together.

2 Q Did you ever see Mr. Houser or
3 Mr. Clarkston hit or kick Mr. Rodriguez at any time
4 during this incident?

5 A No, I did not.

6 Q Would you agree that if you're in the
7 field as an officer and you see other officers doing
8 something inappropriate that you have a right to
9 stop those officers?

10 A Yes.

11 Q Would you do that?

12 A If it was something I don't agree with,
13 absolutely.

14 Q So after the handcuffs go on to
15 Mr. Rodriguez, what do you do next?

16 A We all start coming off from around the
17 side of him. You know, everybody's backing off. He
18 starts trying to raise up again. See his head come
19 up, so I -- I transition into what they call a three
20 point stabilize position that they teach you. And
21 basically I just -- I'm down there in just kind of
22 monitoring him. He's -- make sure he's not going to
23 get up. Everybody else is catching -- we're all
24 just catching our breath and everything.

25 Q Would it be unusual for an individual to

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1 lift their head to try to breathe?

2 MR. JAMES: Objection to form.

3 THE WITNESS: His whole body was coming
4 off the ground.

5 Q (By Ms. Osenbaugh) He's handcuffed at this
6 point, though, correct?

7 A Right.

8 Q So what -- what is it that you thought he
9 was going to do?

10 A Well, there's, you know, I didn't know
11 what he was going to do. I didn't know if he was
12 going to go back to bashing his head in the concrete
13 or if he was going to get --

14 Q He was bashing his head in the concrete?

15 A When he was head butting it earlier. The
16 reason I had to stabilize his head earlier when I
17 got over there. And either that or, you know, get
18 up or, you know, you never know. They can still
19 kick and spit and everything else while they're
20 handcuffed.

21 Q So he's laying on his stomach with the
22 handcuffs on?

23 A Yes.

24 Q And what kind of maneuver do you put on
25 him?

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1 A I don't put a maneuver on him. I just --
2 basically I just I transition where my left knee is
3 kind of resting up above the point of his shoulder
4 like right here. (Indicating).

5 Q And that was necessary to prevent him from
6 kicking or spitting?

7 A Well, it keeps him from raising up. I
8 wasn't putting any pressure on him.

9 Q Did you check to see if he was breathing?

10 A He was breathing.

11 Q How do you know?

12 A I could see him breathing.

13 Q You testified earlier you couldn't see his
14 face.

15 MR. COOPER: Object to form.

16 THE WITNESS: I could see him, his chest
17 up and down.

18 Q (By Ms. Osenbaugh) Then what did you do?

19 A I -- he start -- he takes a couple real
20 deep breaths. And I patted him on the back, I'm
21 like, just calm down, dude. Just take some
22 breathes. I look up at the other officer, like,
23 hey, let's roll this guy over into the recover
24 position. And they came over, we set him up
25 where -- where he's not laying down. And that's

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1 about when the ambulance is arriving.

2 Q And why was the ambulance there?

3 A I'm -- I'm assuming it's a Moore PD
4 policy. Because as soon as -- as soon as we got him
5 in handcuffs, they were calling for a supervisor and
6 medical, since I -- I guess if any force was used.
7 They called them. They were already in the parking
8 lot for the other deal, so...

9 Q You said I guess if any force was used?

10 A Right.

11 Q The Moore supervisor was called? The
12 Moore Police Department supervisor was called?

13 A Uh-huh. Yeah.

14 Q Was he called because they were going to
15 see if any excessive force was being used?

16 A No. Any time -- I'm not -- I don't know
17 their policies, so I'm not really qualified to even
18 speak on that, I don't think.

19 Q Did you do a incident report for Warren
20 Theatres?

21 A No.

22 VIDEOGRAPHER: Is it okay if we take a
23 break in a minute?

24 MS. OSENBAUGH: Is it about time? Okay.

25 Yeah. We can take a break.

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1 A Yeah, three point position.

2 Q At some point did you talk to
3 Mr. Rodriguez to make sure he was okay? Did you say
4 anything to him?

5 A I did. Like I said, when he was --
6 earlier I said he started taking some deep breaths
7 and I patted him on the shoulder and told him just
8 calm down. Take some -- take some deep breaths.
9 Relax. And then that's -- that's when I told the
10 other officers, hey, let's roll him over in the
11 recovery position.

12 Q Did you and Mr. Clarkston have any type of
13 conversation about the length of time that
14 Mr. Rodriguez had been laying face down?

15 A No.

16 Q Did you indicate to Mr. Clarkston that you
17 thought Mr. Rodriguez was playing possum?

18 MR. KIRK: I'm sorry, that he was what?

19 MS. OSENBAUGH: Playing possum.

20 THE WITNESS: Later on, yes.

21 Q (By Ms. Osenbaugh) What does that mean?

22 A I mean, I don't know what point in time
23 we're talking about now. Is this like when we roll
24 him over or what?

25 Q So he's laying face down with handcuffs

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1 on. You said that you didn't have a conversation
2 with Mr. Clarkston at that point?

3 A That's -- I had a conversation. Said,
4 hey, let's roll him over into the recovery position?

5 Q And why did you do that?

6 A Just training. That's -- that's what
7 you're supposed to do.

8 Q So you roll him over.

9 A Uh-huh.

10 Q And what -- what's Mr. Rodriguez doing?

11 A He's sitting there. He's, you know, he's
12 a big guy so instead of, I was trying to be nice to
13 him instead of trying to let him hold himself up.
14 I'm standing here. You can lean up against me, so I
15 just let him lean up against my legs. It's a lot
16 easier to lean up against a wall than it is to try
17 to hold yourself.

18 Q Could you see his face?

19 A No.

20 Q What was his demeanor?

21 A He was just quiet. He wasn't -- nothing.
22 He was just kind of just there.

23 Q Did he speak?

24 A No.

25 Q Did you speak to him?

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1 guys asked for an ID and you asked him -- what else
2 did you ask him? I don't remember now.

3 MR. JAMES: Object to the form.

4 MR. KIRK: Object to the form. That's not
5 all that he's told you.

6 Q (By Ms. Osenbaugh) What else -- I want to
7 know exactly today the questions that you asked
8 Mr. Rodriguez.

9 MR. KIRK: Objection. Asked and answered.

10 MR. JAMES: It's been asked and answered
11 about eight times.

12 MR. KIRK: Yeah. You can answer it again,
13 if you can, Chad.

14 THE WITNESS: Yeah. That -- not being
15 verbatim, but yeah.

16 Q (By Ms. Osenbaugh) Yeah. I just want to
17 make sure I have all of them.

18 A Yeah. Asked what's going on. He was --
19 he -- you know, he wouldn't answer. Personal,
20 personal matter. All that -- all that stuff. Asked
21 several times. Had report there's a -- someone was
22 hit. He admitted that there had been a crime. At
23 that point I asked for ID. And asked for a couple
24 times for ID. Then turned it over and I never asked
25 him anymore question.

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1 Q -- in Strang Exhibit 1?

2 A Yes.

3 Q Plaintiff's Exhibit 1.

4 A Yes.

5 Q Were you concerned about him being able to
6 breathe because of the pepper spray?

7 A No.

8 Q Would you agree that your memory is better
9 the morning after this incident occurred as we sit
10 here today?

11 A Yeah. I mean, I guess.

12 Q If you told the -- the Moore Police
13 Department something along the lines of we don't
14 need to leave him laying on it, we need to roll him
15 up so he can breathe.

16 A That's talking about the recovery position
17 that we talked about earlier.

18 Q So you were concerned about getting him
19 into the recovery position --

20 A Right.

21 Q -- to make sure he could breathe?

22 A Right. That's just part -- part of the
23 training.

24 Q You didn't know the Rodriguez family prior
25 to this incident, did you?

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1 (Brief Recess).

2 VIDEOGRAPHER: We are back on the record.

3 Q (By Ms. Osenbaugh) Mr. Strang, do you have
4 any medical training?

5 A Medical?

6 Q Paramedic, EMT?

7 A No.

8 Q And so as far as what his condition was or
9 what they did or didn't do, you wouldn't have any
10 knowledge of that?

11 A None at all.

12 MS. OSENBAUGH: I'm not going -- I'll pass
13 the witness.

14 MR. KIRK: I have -- I'll start with just
15 a few.

16 CROSS-EXAMINATION

17 BY MR. KIRK:

18 Q Chad, you were asked about the events when
19 you came up and first started speaking to
20 Mr. Rodriguez before Bryan Clarkston and the two
21 Moore officers came up to join you. When you spoke
22 to Mr. Rodriguez did he hesitate in responding to
23 your questions?

24 A No.

25 Q Did he answer you directly?

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1 A Yes.

2 Q Did he ask you to repeat anything you said
3 to him?

4 A No.

5 Q Are there Spanish language movies shown at
6 the Warren Theatres?

7 A Not that I have seen.

8 Q Okay. Do you recall whether there was a
9 Spanish language movie being shown on the night of
10 this evening? The night of this incident, I'm
11 sorry.

12 A Not that -- no.

13 Q So would you conclude that Mr. Rodriguez
14 had been to an English speaking movie that evening?

15 A Yes.

16 MS. OSENBAUGH: Object to the form.

17 Q (By Mr. Hosy) Did you see anything at all
18 in his response to you or his behavior that led you
19 to even suspect that he had the slightest difficulty
20 in your remarks to him?

21 A No.

22 Q There was a -- there were a couple of
23 questions about when the struggle was occurring and
24 Mr. Rodriguez was on the ground. Another officer
25 threw a couple of rabbit punches. What do you mean

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1 by "rabbit punch"?

2 A Just real short. I mean, just not much
3 power. Just about, you know, about that far.
4 (Indicating).

5 Q You were asked, I believe, if there was
6 anything about those punches that you thought was
7 appropriate or inappropriate. Do you have a view on
8 whether those punches were inappropriate?

9 A No, not at all.

10 Q And in your mind did they appear to be
11 sufficient to be a compliance technique?

12 MS. OSENBAUGH: Object to the form.

13 THE WITNESS: Through training I would say
14 that they needed -- they weren't hard enough to
15 actually get any compliance.

16 Q (By Mr. Kirk) Okay. And, in fact,
17 Mr. Rodriguez continued to resist after those rabbit
18 punches were landed, correct?

19 A Right.

20 Q So they apparently were not successful in
21 getting him to comply with any command, right?

22 A Right.

23 Q At anytime during the incident at issue
24 did you tell another officer present whether a
25 security guard or a Moore officer that you thought

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1 they were doing something inappropriate?

2 A No.

3 Q And was that because you thought that all
4 actions appeared to be appropriate in light of the
5 challenges confronting you?

6 A Yes.

7 Q You have personally been involved in an
8 incident where a person tried to grab your service
9 weapon, haven't you, sir?

10 A Yes.

11 Q Did that frighten you?

12 A Absolutely.

13 Q You were wearing a service weapon on the
14 night of this incident, weren't you, sir?

15 A Yes.

16 Q And were other officers wearing weapons as
17 well?

18 A All of them, yes.

19 Q Is it a concern of law enforcement
20 officers that persons with whom they come in contact
21 might attempt to take their weapon from them and
22 turn it on them?

23 A Yes.

24 Q And is that something that you think about
25 every time you have to confront someone?